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December 17, 2020

VIA ECFHonorable Margo K. Brodie
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201Re: *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons, et al.*, No. 19-cv-00660 (E.D.N.Y.)

Dear Judge Brodie:

I write to update the Court on the parties' ongoing efforts to address several of the important issues raised in this litigation through mediation.

I. Background

I have continued to receive call and videoconference data from the parties. I continue to be in communication with the Federal Defenders, Inc. ("Plaintiff") and their

counsel, and the government and representatives of the Metropolitan Detention Center (“MDC”) and Metropolitan Correctional Center (“MCC”).¹

My communications with the Federal Defenders and the government focused on the following topics:

1. The current status of in-person legal visitation at both institutions.
2. The execution of the current protocol for scheduling and placing attorney-client phone calls at the MDC and the MCC.

II. Telephonic Contact

The parties continue to schedule and facilitate legal phone calls under the Court Protocol for Attorney Calls and Teleconference Hearings. Pursuant to the Protocol, attorney-client calls were scheduled by Federal Defenders for afternoon slots of one-half hour each from 12pm to 3pm at the MDC and 1 to 3:30 pm at the MCC. As Your Honor is aware, the parties have also made efforts to expand legal call hours beyond the times provided in the Protocol. *See* ECF Nos. 70 & 76.

A. MCC

According to the information received from the parties, MCC scheduled 174 calls between December 10 and December 16, 2020. 169 calls were completed, two were attempted but not completed, and three were cancelled or rescheduled by the requesting attorney. Federal Defenders did not report that any call requests were pending for more than 48 hours. Additionally, Federal Defenders report some privacy, scheduling and technical issues this week.

B. MDC

According to the information received from the parties, MDC scheduled 305 calls between December 10 and December 16, 2020. 289 calls were completed, four were attempted but not completed, one was rescheduled by the requesting attorney, and 11 were not completed for unknown reasons. We are working with the parties to gather more information about these calls. Federal Defenders report that 31 call requests were pending for more than 48 hours. Additionally, Federal Defenders report some technical and scheduling issues this week.

IV. Videoconferencing

A. MCC

According to the information received from the parties, MCC scheduled 37 videoconferences between December 10 and December 16, 2020. 35 were completed

¹ I held a joint mediation call with the parties on December 16, 2020.

as scheduled and two were not completed for unknown reasons. We are working with the parties to gather more information about these VTCs. Federal Defenders did not report that any call requests were pending for more than 48 hours. Additionally, Federal Defenders report some scheduling issues this week.

B. MDC

According to the information received from the parties, MDC scheduled 42 videoconferences between December 10 and December 16, 2020. 40 were completed as scheduled and two were not completed for unknown reasons. We are working with the parties to gather more information about these VTCs. Federal Defenders report that 31 VTC requests were pending for more than 48 hours. Additionally, Federal Defenders report some technical and scheduling issues this week.

V. In Person Visiting

The MDC continues its suspension of in-person visiting due to an uptick of COVID diagnoses in the institution. The government has indicated that it has taken steps to increase remote telephone capacity by adding additional telephone units on each floor. One of the quarantine units has already received a dedicated phone line which began to be utilized this week, and remaining telephone units are predicted to arrive next week. The government has also expressed its intent to provide additional videoconferencing capability for quarantine units.

Approval has been granted for the additional HVAC testing requested by plaintiff. I will continue to work with the parties to ensure the additional testing is scheduled as soon as possible. I also continue to monitor the progress of the resumption of electronic scheduling of in-person visiting, given that the MCC is still open for legal visits for inmates not in quarantine.

I continue to discuss with the parties the issue of staff who are observed not wearing masks correctly or at all. I will continue to monitor this issue and the institutions' response to the situation. I am also exploring with the parties the issue of delays in the receipt of legal mail.

Respectfully,

/s/ Loretta E. Lynch
Loretta E. Lynch

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